IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17842 of 2004

Between:

B.Vijaya Laxmi, w/o B.Vijayanand,
Domakonda Village and Mandal, Nizamabad.

..... PETITIONER

AND

1 The Joint Collector (Civil Supplies), Nizamabad.
2 o/o Revenue Divisional Office, rep., by Revenue Divisional Officer, Kamareddy, Nizamabad District.
3 o/o Mandal Revenue Office, rep., by the Mandal Revenue Officer, Domakonda Mandal, Nizamabad District.
4 The District Manager (Civil Supplies Corporation), Nizamabad.
5 The District Supply Officer, Nizamabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of certiorari calling for the records relating to the proceedings No.A2/3324/04 dt.21-9-2004 issued by the Mandal Revenue Officer, Domakonda, 3rd respondent herein and the District Manager (Civil Supplies Corporation), Nizamabad, 4th respondent herein in invoking the proceedings of A.P. Revenue Recoveries Act for the alleged recovery of amount of arrears due in cost of the rice and quash the same by duly declaring the action of the respondents 3 and 4 herein initiating the action by invoking the provisions of A.P. Revenue Recoveries, 1864 without following mandatory procedure as contemplated under the Act and also without determining the liability as illegal, arbitrary and violative of Article 14 of the Constitution of India and also contrary to the mandatory procedure contemplated under the A.P. Revenue Recoveries Act, 1864.

Counsel for the Petitioner:MR.VINOD KUMAR DESHPANDE

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following Order:

This writ petition is filed aggrieved by the order dated 21-09-2004 passed by the third respondent-Mandal Revenue Officer, Domakonda Mandal, Nizamabad District, under which the petitioner was called upon to remit a sum of Rs. 17,46,800/- towards the value of the deficit stock of Food for Work" rice alleged to be misappropriated by the petitioner.

The petitioner, who is the authorized dealer of Fair Price Shop No.1, situated at Domakonda village and Mandal, Nizamabad District, states that the allegation of misappropriation is absolutely false and without any basis and at any rate without issuing any notice to the petitioner and without conducting any enquiry into the alleged misappropriation and particularly without there being any quantification of the amounts alleged to be due, the third respondent is not justified in issuing the impugned notice.

Heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents.

Obviously, the petitioner was not afforded any opportunity to explain the alleged misappropriation since the impugned notice does not refer to any prior notice having been issued to the petitioner. As rightly contended by the learned Counsel for the petitioner, the respondents cannot unilaterally conclude that the petitioner is guilty of misappropriation and cannot straight away proceed for recovery of the value of the alleged deficit stock.

In the circumstances, I deem it appropriate to dispose of the writ petition, permitting the petitioner to submit his explanation treating the impugned notice dated 21-09-2004 as show cause notice. If such explanation is received within two weeks from the date of receipt of this order, the respondents shall consider the same and pass appropriate orders in accordance with law. Learned counsel for the petitioner states that for offering such explanation, it is necessary for the petitioner to peruse the records, which were said to be seized on 26-08-2004 and were kept in the custody

of the 5th respondent. If that be so, it is open to the petitioner to make an appropriate representation before the respondents 3 and 5 to permit her to peruse the records, in which event the respondents 3 and 5 shall consider the same and allow the petitioner or her representative to peruse the records following due process of law.

Till appropriate orders are passed in terms of this order, no coercive steps shall be taken against the petitioner for recovery of the amounts in pursuance of the impugned notice.

The Writ Petition is accordingly disposed of. No costs.

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04-10-2004

Note:- CC in 3 days.

(B/O)

kdl

To

1 The Joint Collector (Civil Supplies), Nizamabad.
2 o/o Revenue Divisional Office, rep., by Revenue Divisional Officer, Kamareddy, Nizamabad District.
3 o/o Mandal Revenue Office, rep., by the Mandal Revenue Officer, Domakonda Mandal, Nizamabad District.
4 The District Manager (Civil Supplies Corporation), Nizamabad.
5 The District Supply Officer, Nizamabad.

6 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P. Hyderabad, (OUT).

7 Two C.D. Copies.